



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

Christina L. Waggett
Assistant Commissioner
for Consumer Protection

Michael Martin, DVM
State Veterinarian

February 21, 2022

Stephanie D'Addario
Owner
Classy Critters Pet Resort and Spa
116 ABJ Way
Mooresville, North Carolina 28117

NOTICE of CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT for VIOLATIONS of TITLE 02 N.C. ADMINISTRATIVE CODE ("NCAC") CHAPTER 52J SECTIONS .0210(c); and .0210(d) and NOTICE of WARNING FOR VIOLATIONS OF 02 NCAC 52J .0102(1); and .0204(a);

AWS-CP-2022-4

**Facility: Classy Critters Pet Resort and Spa
License Number 11274**

Dear Ms. D'Addario:

Pursuant to NCGS § 19A-40, I am issuing this notice that you individually and d/b/a Classy Critters Pet Resort and Spa are hereby assessed a civil penalty of \$600.00 as provided in the enclosed Notice of Violations.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N.C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to NCGS § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may contact me by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by NCGS § 150B-23. The petition must be filed with the N.C. Office of Administrative Hearings ("OAH") within 60 days from the date of this document. Additionally, the petition must be accompanied by a filing fee of twenty dollars (\$20.00). Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000.

You must serve NCDA&CS by mailing a copy of the petition to:

Mr. Jonathan Lanier
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,



Patricia Norris, DVM, MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

**cc: Michael Martin, DVM, State Veterinarian;
Jonathan Lanier, General Counsel, NCDA&CS;
Christina L. Waggett, Assistant Commissioner, NCDA&CS;
Christopher R. McLennan, Assistant Attorney General**

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

IN THE MATTER OF)	NOTICE of VIOLATIONS and
)	ASSESSMENT of CIVIL PENALTY
STEPHANIE D'ADDARIO)	for VIOLATIONS of TITLE 02 N.C.
OWNER of)	ADMINISTRATIVE CODE CHAPTER
CLASSY CRITTERS PET RESORT and SPA)	52J SECTIONS .0210(c); and .0210(d);
)	and NOTICE of WARNING for
)	VIOLATIONS OF 02 NCAC 52J .0102(1)
)	and .0204(a).

Acting pursuant to N.C. General Statute § 19A-40, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter, Classy Critters Pet Resort and Spa ("the kennel") was a boarding kennel, licensed pursuant to N.C. General Statute ("NCGS") § 19A-28.
2. On January 6, 2022, AWS received a complaint alleging that the kennel failed to change a bandage daily for a dog, named Maggie, that was boarding at the kennel, failed to note or seek treatment for the wounds on the dog's tail and that the facility was unclean. The complainant stated that she had confirmed with the kennel that they would change the bandage daily but when she picked up Maggie on December 26, 2021, all the bandage materials she had provided to the kennel on December 23, 2021 were unopened. Also, the complainant alleged in the follow-up contact with the AWS Inspector that the owner's husband immediately noted when he picked Maggie up from the kennel that the dog's tail was bloody, the bandage on the paw was the same bandage that had been on the paw when they left Maggie, and that the bandage was bloody. He asked the kennel staff about the blood and allegedly the kennel staff told him the blood was from another dog that had been in the kennel before Maggie. The owners examined Maggie when they got her home and found that the blood was from multiple bite wounds on the tail. Based on the information in the complaint, AWS opened an investigation.
3. As part of the investigation, the AWS Inspector conducted an unannounced site visit to the kennel on January 13, 2022. This site visit revealed the following:
 - a. the AWS asked the kennel staff about the bandage changes for Maggie. The staff replied that they had changed it but not the day the dog went home. When the AWS Inspector requested to view the kennel records to verify the provision of veterinary care for Maggie, there was no documentation of a bandage change for her paw. When asked about this, the staff member stated she did not know about this documentation requirement despite the AWS Inspector discussing this rule during previous facility compliance inspections ("FCI"); and
 - b. the kennel records did not indicate that the bloody wounds on Maggie's tail were observed or that veterinary care was provided for the wounds.
4. As part of the investigation on January 13, 2022, the AWS Inspector conducted a FCI of the kennel

and noted the following:

- a. the kennel card with the date of entry was not maintained for Olaf as required by 02 NCAC 52J .0102(1);
- b. the kennel staff stated that 3 dogs were present at the time of the FCI for day care boarding, but no dogs were signed in for January 13, 2022 in violation of 02 NCAC 52J .0102(1). This violation had been noted on previous FCIs on January 1, 2020, April 12, 2021 and June 3, 2021;
- c. the block walls in the enclosures are not impervious to moisture in violation of 02 NCAC 52J .0204(a). This violation was also cited during the June 3, 2021 FCI;
- d. as baseboards had come off the walls in some of the primary enclosures and the areas had not been repaired, these surfaces were not impervious to moisture in violation of 02 NCAC 52J .0204(a). This violation was also noted during the November 2, 2018 FCI;
- e. floor tiles and panels are missing and/or damaged in the primary enclosures and in the indoor play rooms exposing the wooden floor in violation of 02 NCAC 52J .0204(a). The kennel was cited for this violation during the FCIs on January 21, 2020, April 12, 2021 and June 3, 2021;
- f. review of the kennel's animal records showed that proof of current rabies vaccination status was missing for 3 of the 5 dogs that were checked in violation of 02 NCAC 52J .0210(d) which requires that all animals in a licensed facility to be in compliance with the NC rabies law. The kennel was also cited for this violation during the FCIs on March 5, 2021 and April 12, 2021; and
- g. the January 13, 2022 FCI was marked as DISAPPROVED due to the number, severity, and repetitive nature of the violations.

CONCLUSIONS

As a result of this investigation, AWS concludes that the kennel, either by act or omission, violated the following provisions:

02 NCAC 52J .0210(c) for failing to provide the bandage changes and failing to provide daily observation and veterinary care for the injury to Maggie during his boarding stay from December 23 - 26, 2021; and

02 NCAC .0210(d) for boarding 3 animals not in compliance with the NC rabies law January 13, 2021.

CIVIL PENALTY

As required by N.C. General Statute § 19A-40, in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, Stephanie D'Addario, as owner and operator of Classy Critters Pet Resort and Spa, is hereby assessed a civil penalty for the following violations:

\$500.00 for violation of 02 NCAC 52J .0210(c) for failing to provide daily observation and veterinary care for the injury to Maggie and for the failure to provide bandage changes during his boarding stay December 23-26, 2022; and

\$100.0 for violation of 02 NCAC 52J .0210(d) for boarding 3 animals not in compliance with the NC rabies law on January 13, 2021.

\$600.00 TOTAL AMOUNT ASSESSED

NOTICE of WARNING

As to the remaining violations of 02 NCAC 52J .0102(1) and .0204(a) for failing to maintain records of date of entry for boarding animals and numerous areas of non-compliance in which wood was accessible to animals and surfaces in which the animals had contact were not impervious to moisture, this Warning Letter serves as written notice indicating in which respects the kennel has violated the NC Animal Welfare Act and the rules issued pursuant thereto.

Continued or future violation of the statutes or regulations referenced in this letter will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's license pursuant to NCGS § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under NCGS § 19A-40.

(See Appendix for text of referenced General Statutes and Administrative Code)

February 21, 2022
Date

Patricia Norris DVM, MS
Patricia Norris, DVM, MS
Director, Animal Welfare Section
North Carolina Department of Agriculture & Consumer Services

Appendix

REFERENCED LAWS AND REGULATIONS

§ 19A-28. License required for public auction or boarding kennel.

No person shall operate a public auction or a boarding kennel unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year.

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the

violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect.

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

02 NCAC 52J .0102 RECORDS; BOARDING KENNELS

Operators of boarding kennels shall maintain records of all dogs and cats showing the following:

- (1) name and address of owner or person responsible for animal, the date of entry and signature and address of individual to whom animal is released and the date of release;

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(a) Primary enclosures shall be constructed so as to prevent contamination from waste and wastewater from animals in other enclosures. All surfaces with which an animal comes in contact shall be impervious to moisture. For primary enclosures placed into service on or after January 1, 2005, no wood shall be within the animal's reach. For primary enclosures in use in a licensed or registered facility prior to January 1, 2005, any damaged wood must be replaced in a manner that does not permit contact with wood by the animal.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0210 VETERINARY CARE

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

(d) All animals in a licensed or registered facility shall be in compliance with the North Carolina rabies law, G.S. 130A, Article 6, Part 6. However, no shelter shall be disapproved following inspection or otherwise cited for failure to inoculate any dog or cat known to be less than 12 weeks old or until such animals have been in the shelter at least 15 days.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. March 23, 2009; January 1, 2005.